



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: L. RICHARD MARTIN, JR.
Virginia Department of Social Services

FROM: ALLEN T. WILSON
Assistant Attorney General

DATE: December 13, 2004

SUBJECT: Proposed Regulation 22 VAC 40-201-10 et seq.
Permanency Services-Prevention, Foster Care,
Adoption and Independent Living

I have reviewed the attached proposed regulation to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the proposed regulation and if this action by the State Board comports with applicable state law.

Virginia Code § 63.2-217 mandates that the State Board promulgate regulations that are necessary to carry out the provisions of Title 63.2. Virginia Code §§ 63.2-900, 63.2-901.1, 63.2-904, 63.2-907, 63.2-908 specifically authorize the State Board to promulgate regulations relating to various aspects of foster care. It appears that the State Board has the authority to promulgate the proposed regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 21 (2002)), and has not exceeded that authority.

If you have any questions, please feel free to call me at 786-3450.

Attachment